

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 3631 of 2007(G)

PETITIONER:

**M.SREESHAN, S/O.DAMODHARAN,
AGED 33 YEARS, "SREEJA NIVAS", MUZHAPILANGAD (PO),
KANNUR DISTRICT.**

**BY ADV. SRI.C.KHALID
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID**

RESPONDENTS:

- 1. THE REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE (RTO),
KANNUR.**
- 2. THE JOINT REGIONAL TRANSPORT OFFICER,
THALASSERY.**
- 3. SUB INSPECTOR OF POLICE,
KANNAVAM POLICE STATION, KANNAVAM.**

BY GOVERNMENT PLEADER SMT. N. SUDHADEVI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WPC.NO.3631/2007

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1. COPY OF THE PHOTOGRAPH

EXT.P2. COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DT.18.12.2006

EXT.P3. COPY OF THE REPLY DATED 22.12.2006 TO THE 1ST RESPONDENT

**EXT.P4. COPY OF THE SUSPENSION ORDER DATED 26.12.2006 TO THE 2ND
RESPONDENT**

/TRUE COPY//

PGR

K.BALAKRISHNAN NAIR,J.

WP(C)NO.3631 OF 2007-G

Judgment

The petitioner is the driver of the stage carriage bearing Registration No.KL-13/F-1467. The said vehicle collided with a car bearing Registration NO.KL-13/N-134 on 21.06.2006. Later, the petitioner was served with Ext.P2 show cause notice, purportedly issued under Section 19(1) of the Motor Vehicles Act, proposing to suspend/cancel his licence. Reliance was placed on the crime registered against him as Crime No.73/06 of Kannavam Police Station under Sections 279, 304A and 337 IPC. The petitioner submitted Ext.P3 reply, stating that he had never been involved in any accident and it was the first time, such an accident took place and a crime was registered against him. According to him, owing to the negligence of the driver of the car, the accident took place. But, overruling his objections, his driving licence was suspended under Section 21 of the Motor Vehicles Act, by the 1st respondent licensing authority by Ext.P4 order. The said order reads as follows :

“As per the ref. cited, JRTO Thalassery forwarded the DL No.1981/94 to take action against the DL holder, who is involved in crime No.73/06 u/s 279, 337, 304A IPC of Kannavam PS. This office called the DL holder for personal hearing on 22.12.2006. The DL holder denied the offence and it is found that the recommendation of investigation officer is just and correct.

Hence the Licensing authority under the power empowered

on me u/s 21 hereby suspended DL No.1981/94 for a period of 3 months from 22.12.06 to 21.03.07.”

This Writ Petition is filed, challenging Ext.P4 on the ground that the provisions of Section 21 of the Motor Vehicles Act will not apply to the case of the petitioner.

2. The respondents have filed a statement. But, no grounds have been raised in it to support the impugned action. Section 21 applies to all persons, who have been previously convicted for an offence punishable under Section 184 of the Motor Vehicles Act. Ext.P2 does not contain any such allegation. The petitioner also submits, there is no previous conviction against him. The statement of the respondents also does not speak of any previous conviction of the petitioner. Therefore, the contention of the petitioner that Section 21 of the Motor Vehicles Tax Act does not apply to his case, has to be accepted. In the result, the Writ Petition is allowed. Ext.P4 is quashed.

09.02.2007

K.BALAKRISHNAN NAIR,JUDGE

sta

